

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3667 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SHANKAR SHAHIDHAR

Versus

STATE OF GUJARAT

Appearance:

MR MC BHATT for Petitioners

M/S PATEL ADVOCATES for Respondent No. 1, 2

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 24/03/2000

ORAL JUDGEMENT

In this petition, the order passed by the respondents withholding increments of the petitioners on the ground that they have not passed Gujarati language examination , has been challenged.

Almost in similar circumstances, several petitions came up for hearing before learned Single Judge of this Court in SCA No. 3581 of 1998 and companion matters and they were partly allowed. That order was passed on November 21, 1998. Learned Single Judge held that it would be in the interest of justice to grant extension of three years during which period, petitioners will clear the said examination.

Again, a similar question arose before another learned Single Judge of this Court in SCA No.5663 of 1986 decided on August 18, 1999. Relying upon the decision in SCA No. 3581 of 1998 and cognate matters, learned Single Judge allowed the petition and in paras 3 and 4 stated as under:

"Having heard the learned counsel for the parties, this petition is disposed of with a direction that if the petitioner has not already passed the Gujarati language examination under the aforesaid Rules, the petitioner shall do so within a period of three years from today. If the petitioner does not pass the said examination within three years from today, the respondents shall be at liberty to recover the amount of increments which the petitioner has been getting on account of the interim order dated 13.11.1986 passed by this Court in the present petition at the time of admitting the petition.

The request of the learned counsel for the petitioner to provide for extension of the period after the expiry of three years is not granted, since the petitioner has already obtained the benefit of the interim stay for the last 13 years whereas the cases disposed of by the above judgment were pending for only 2 to 9 years.

4. The petition is accordingly disposed of in terms of the aforesaid direction."

The point is thus concluded by the above two decisions. Agreeing with the above view, I also direct the respondent authorities not to withhold increments or to recover any amount if the petitioners clear the examination within a period of three years from today. Petition is accordingly allowed to the said extent. No order as to costs.

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parekh